

1 IN THE FIFTEENTH JUDICIAL CIRCUIT COURT IN AND FOR

2 PALM BEACH COUNTY, FLORIDA

3 CASE NO. CL 95-1466 AH

4

5 THE STATE OF FLORIDA, et al.,

6 Plaintiff,

7 vs.

8 THE AMERICAN TOBACCO COMPANY,
et al.,

9

Defendants.

10

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11

12 DEPOSITION OF STEPHEN GOLDSTONE, CEO
TAKEN AT THE INSTANCE OF THE PLAINTIFFS

13

14

15 Manalapan, Florida
16 August 22, 1997
9:00 a.m. - p.m.

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(561) 659-0330

2 METZGER, SONNEBORN & RUTTER, P.A.
1545 Centrepark Drive North
3 West Palm Beach, FL 33401-7414
SPECIAL MASTER R. WILLIAM RUTTER, JR.

4
5 NESS, MOTLEY, LOADHOLT,
RICHARDSON & POOLE
151 Meeting Street, Suite 600
6 Charleston, SC 29402
Attorneys for Plaintiffs
7 BY: RONALD L. MOTLEY, ESQUIRE
TAMMY CAULEY, ESQUIRE
8 JOHN BADEN, ESQUIRE
ANN RITTER, ESQUIRE
9 KIM VROOM, ESQUIRE
JODI W. FLOWERS, ESQUIRE

10 OFFICE OF THE ATTORNEY GENERAL
11 The Capitol, PL-01
Tallahassee, FL 32399-1050
12 BY: KIM TUCKER, ESQUIRE

13 MAHER, GIBSON & GUILLEY
90 East Livingston, Suite 200
14 Orlando, FL 32801
BY: MICHAEL MAHER, ESQUIRE

15 YERRID, KNOPIK & MUDANO, P.A.
16 101 East Livingston, Suite 200
Orlando, FL 32801
17 Attorneys for Plaintiffs
BY: C. STEVEN YERRID, ESQUIRE

18 NANCE, CACCIATORE, SISSERSON,
19 DURYEA & HAMILTON
525 North Harbor City Boulevard
20 Melbourne, FL 32936
Attorneys for Plaintiffs
21 BY: JIM H. NANCE, ESQUIRE

22 HOWARD & ASSOCIATES
215 South Monroe Street, Suite 704
23 Tallahassee, FL 32301
Attorneys for Plaintiffs
24 BY: P. TIM HOWARD, ESQUIRE

25

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1 ARNOLD & PORTER
555 12th Street N.W.
2 Washington, DC 20004-1202
Attorneys for Philip Morris Companies
3 BY: G. PETER BLEAKLEY, ESQUIRE
DAVID KENTOFF, ESQUIRE

4 JONES, DAY, REAVIS & POGUE
5 3500 One Peachtree Center
6 303 Peachtree Street, N.W.
7 Atlanta, GA 30308-3242
8 Attorneys for RJR Nabisco, Inc.
9 BY: R. DAL BURTON, ESQUIRE
10
11 SKADDEN, ARPS, SLATE, MEACHER & FLOM LLP
12 919 Third Avenue
13 New York, NY 10022
14 Attorneys for United States Tobacco Company &
15 UST Inc.
16 BY: DOUGLAS E. FLEMING, III, ESQUIRE
17
18 DAVIS, POLK & WARDWELL
19 450 Lexington Avenue
20 New York, N.Y. 10017
21 Attorneys for Stephen Goldstone, the
22 witness, and RJR Nabisco
23
24
25 VIDEOGRAPHY BY:
MELANIE GROUT REPORTING, INC.
(LES SMOAK)
ALSO PRESENT:

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1 I N D E X

2

3 WITNESS: PAGE

4 STEPHEN GOLDSTONE, CEO

5 Direct Examination by Mr. Motley 5

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7	EXHIBITS FOR IDENTIFICATION:	PAGE
8	1	
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1 The Deposition of STEPHEN GOLDSTONE, CEO was
2 taken before me, MELANIE J. GROUT, Registered
3 Professional Reporter and Notary Public, State of
4 Florida at Large, at Ritz Carlton, Conference Room, 100
5 S. Ocean Boulevard, Manalapan, Florida, beginning at
6 the hour of 8:45 a.m., on August 22, 1997, pursuant to
7 the Notice filed herein, at the instance of the
8 Defendant in the above-entitled cause pending before

9 the above-named Court.

10 - - - -

11 THEREUPON,

12 STEPHEN GOLDSTONE, CEO,

13 being by me first duly sworn to testify the whole

14 truth, as hereinafter certified, testified as follows:

15 DIRECT EXAMINATION.

16 MR. MOTLEY: On the record. This is the

17 the state of Florida

18 BY MR. MOTLEY:

19 Q. Good morning, Mr. Goldstone. You and I met

20 one time previously and informally off the record. My

21 name is Ron Motley. I represent the State of Florida.

22 Mr. Goldstone, I hope that today's deposition will be

23 accomplished like yesterday's, in a spirit of civility,

24 I intend to conduct myself in that fashion. I hope any

25 fears you might have based on conduct of others is not

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1 something that will happen here today. Good morning,

2 sir.

3 A. Good morning. I appreciate that.

4 Q. You are a lawyer?

5 A. I am a lawyer.

6 Q. Where did you go to law school, sir?

7 A. NYU.

8 Q. When did you graduate?

9 A. 1970.

10 MR. CRIST: Let me note for the record.

11 NYU is a fine law school.

12 THE WITNESS: I thought you were going
13 to note for the record that 1970 is a long
14 time ago.

15 BY MR. MOTLEY:

16 Q. I would note for the record, I didn't go to
17 NYU. But I know it's in New York City. When you
18 graduated from law school, sir, what did you do?

19 A. I went to the law firm of Davis, Polk and
20 Wardwell which is in New York City.

21 Q. When did you become a partner in that law
22 firm?

23 A. 1978.

24 Q. And subsequently did you work on client
25 affairs of RJ Reynolds or RJ Nabisco?

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1 A. After I became a partner, I worked for RJR
2 Nabisco on a couple of matters, corporate type, merger
3 and acquisition type matters.

4 Q. That would be after 1978?

5 A. Correct.

6 Q. And you joined RJR Nabisco or any of its
7 entities in what year?

8 A. 1995.

9 Q. And what is your current position, sir?

10 A. I'm chairman and chief executive officer of
11 RJR Nabisco.

12 Q. You are then, the chief executive officer of
13 RJR Nabisco?

14 A. Correct.

15 Q. One of the responsibilities is protecting

16 the equity of the stockholders?

17 A. That is an important responsibility of mine.

18 Part of what I do is look at a balance sheet and try to

19 optimize our balance sheet and manage our financial

20 affairs in the most general sense possible.

21 Q. So that's a yes to my question?

22 A. Yes.

23 MR. MOTLEY: Exhibit 1, please.

24 (Plaintiff's Exhibit No. 1 marked.)

25 BY MR. MOTLEY:

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1 Q. Mr. Goldstone, your predecessor as chief

2 executive officer of RJR Nabisco was whom?

3 A. Charles M. Harper, known as Mike Harper.

4 Q. I've handed you exhibits which purports to be

5 a letter from RJR Nabisco to Lou Holtz, the head

6 football coach then at the University of Notre Dame.

7 Do you recognize the signature of Mr. Harper and the

8 format of that stationery?

9 A. Yes. That looks like my signature and it

10 looks like Mike's stationery.

11 Q. Do you recognize the name of Coach Holtz,

12 correct?

13 A. Yes.

14 Q. Okay. Now, would you look at Exhibit 1, item

15 No. 4 on page 1 of the document, the letter. There's a

16 new era. In fact our three top priorities are

17 earnings, earnings, earnings. Do you see that?

18 A. Yes.

19 Q. Indeed without ascribing anything sinister to
20 that, that is in fact one of the jobs of the CEO is to
21 maximize earnings for the shareholders; is that
22 correct?

23 A. That's correct.

24 Q. Mr. Goldstone, have you become familiar with
25 something called the frank statement?

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1 A. I have heard of it. And I know it's part of
2 this litigation.

3 Q. Have you ever read it?

4 A. I don't think so.

5 Q. The Frank Statement, I would ask you to
6 assume is published in three hundred plus newspapers in
7 January of 1954. How old were you then, sir?

8 A. Eight.

9 Q. Eight. I suppose reading advertisements in
10 newspapers was not your favorite pasttime?

11 A. It wasn't then. It isn't now.

12 Q. But I would ask you to assume that in January
13 1954 RJ Reynolds endorsed an ad that was placed in
14 three hundred plus newspapers in which they promised
15 the American people, among other things that they would
16 cooperate fully with public health officials in regard
17 to cigarette smoking and human disease.

18 Indeed they said that the responsibility to

19 the public health was paramount business consideration
20 of their firm. I just asked you to assume they said
21 that. And I ask you this question, sir. Would that be
22 the philosophy of RJ Reynolds today, under your
23 leadership, that is, that the public health is this
24 paramount consideration in business?

25 MR. CRIST: Object to the form of the

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1 question.

2 THE WITNESS: I do think that Reynolds
3 is our tobacco company as you know, and we
4 own a hundred percent of it. I think when
5 you sell a product like cigarettes, public
6 health has got to be a paramount concern,
7 definitely.

8 BY MR. MOTLEY:

9 Q. And Reynolds pledged in 1954, not by itself,
10 but in concert with the other cigarette manufacturers,
11 that they would cooperate fully with public health
12 officials. I just ask you to assume they said that.
13 In 1997, is that the philosophy of Reynolds under your
14 leadership, that is, to corroborate with public health
15 officials?

16 MR. CRIST: Same objection.

17 THE WITNESS: Yes.

18 BY MR. MOTLEY:

19 Q. I'm going to mark this Exhibit 2. Your own
20 autographed copy of the Frank Statement.

21 (Plaintiff's Exhibit No. 2 marked.)

22 BY MR. MOTLEY:

23 Q. If you might so that understanding that this
24 is going to be shown to the jury later, would you mind
25 holding that to the camera so the camera can see?

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1 A. Sure.

2 Q. That this is in fact a Frank Statement to
3 cigarette smokers.

4 A. Was the writing this small on the original?

5 Q. I think this is half of a page of a
6 newspaper. But I may be wrong. But you will agree
7 that RJ Reynolds endorsed this advertisement, if you
8 look at the signatories at the bottom?

9 A. Well, that's Reynold's name. So I assume
10 that's true.

11 Q. Okay. If you would on the first column it
12 says, we accept an interest in people's health as a
13 basic responsibility paramount to every other
14 consideration in our business. Do you see that right
15 under No. 4 on the left column, sir?

16 A. Yes, I do.

17 Q. And then they say, we believe the products we
18 make is not injurious to health. Do you see that?

19 A. Yes, I do.

20 Q. In 1997, Mr. Goldstone, is that statement
21 still true, that Reynolds believes the products we make
22 is not injurious to health?

23 MR. CHRIST: Object to the form the

24 question.

25 MR. CARLSON: Object to the form of the

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12

1 question.

2 THE WITNESS: I don't think Reynolds
3 could make that statement.

4 MR. CRIST: An objection by one is an
5 objection by all.

6 MR. MOTLEY: That's fine.

7 MR. CARLSON: That would be fine by me.

8 MR. MAHER: We will be willing to
9 stipulate you reserve all objections
10 including form.

11 MR. CRIST: It may well -- I'll be happy
12 to accept that stipulation.

13 BY MR. MOTLEY:

14 Q. Mr. Goldstone, I believe you just told me
15 Reynolds could not make the statements that the product
16 we make is not injurious to health.

17 A. I believe they could not make that statement.

18 Q. Mr. Goldstone, you've been quoted in
19 newspapers saying that under your stewardship you
20 intend to make Reynolds to instill a new sense of
21 corporate culture. Do you recall making that
22 statement?

23 A. Actually --

24 Q. Well, is it true?

25 A. Mr. Motley, I think the managers today at

1 Reynolds understand that that company has to accept
2 responsibility and conduct itself in a responsible
3 manner. And to that extent I'm satisfied that they are
4 doing that today.

5 Q. Okay. Mr. Goldstone, do you agree that in
6 the past Reynolds' managers not under your helm have
7 made mistakes that have impacted adversely on public
8 health?

9 A. I can't say that, Mr. Motley. You know, the
10 only thing -- I know we're going to go through a lot of
11 this, but in fairness to me, really, I've been in this
12 company a year-and-a-half, I know there are lawsuits
13 surrounding the conduct of this company.

14 I talked to my lawyers about it a lot. I
15 understand there are raging debateness this case,
16 including this one you have in Florida but I don't have
17 judgments to make. I'm not interested in the past.
18 That's something for you and the judges and the juries
19 to figure out.

20 For me it's going forward in the future how
21 we conduct ourselves in the future.

22 Q. If you're going to conduct yourself
23 differently in t he future, then obviously you're going
24 to make some changes, correct?

25 A. What I said to you is we're going to conduct

1 ourselves responsibly: I'd like to think our company
2 conducted itself responsibly in all circumstances in
3 the past. But that is what the subject of this
4 litigation in Florida is all about.

5 Q. You've made some statements, though, in the
6 public, in the media, about Reynolds' conduct in the
7 past, have you not?

8 A. I don't think so.

9 Q. Well, have you attempted to acquaint yourself
10 with some of the documents and statements made by your
11 predecessors?

12 A. I have talked to our lawyers pretty
13 extensively about what the circumstances are
14 surrounding a lot of these lawsuits.

15 Q. You consider yourself an ethical lawyer?

16 A. I do, sir.

17 Q. Have you attempted to acquaint yourself with
18 some of the documents relating to Reynolds' lawyers who
19 represented Reynolds in the past, particularly Mr. Ed
20 Jacobs?

21 MR. KOLB: We're going to have a problem
22 if you probe into his discussions with
23 counsel may have been. You may not intend
24 that.

25 MR. MOTLEY: No.

M E L A N I E G R O U T R E P O R T I N G , I N C .
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1 MR. KOLB: You could well get into that
2 kind of thing. I think it would be most

3 helpful you ask what his state of awareness
4 is without getting into how he knows.

5 MR. MOTLEY: Let me rephrase it.

6 BY MR. STPHAO:

7 Q. Are you proud of the conduct of Ed Jacobs in
8 his representation of Reynolds that the past however
9 you acquired the information?

10 A. I don't think I can say that. Proud is --
11 pride is not a feeling that comes to mind under those
12 circumstances.

13 Q. You are uncomfortable, are you not, sir, from
14 what you've learned of -- how you learned it, with how
15 Mr. Jacobs conducted himself in regard to the public
16 health of this country?

17 MR. CRIST: Object to t he form. It's
18 vague.

19 THE WITNESS: I think -- it's not just
20 -- I don't have a specific recollection of
21 Mr. -- all of the things that I may have
22 learned about recently that are issues
23 concerns Mr. Jacobs, but I do know there are
24 questions about a lot of the things that
25 lawyers generally may have been involved, and

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16

1 as I say, some of those questions are more
2 serious than others and those are the kinds
3 of things you are going to let judges and
4 juries decide about.

5 BY MR. MOTLEY:

6 Q. Well, Mr. Goldstone, in your legal career you
7 never advised a client to destroy documents that relate
8 to public health, have you?

9 MR. KOLB: Mr. Motley, it's somewhat
10 unfair to ask a question which you would
11 think would normally require an
12 attorney-client privilege objection because
13 that could. In this circumstance that could
14 create an adverse inference or
15 misimpression. I would suggest that you
16 might frame your question so that doesn't
17 happen.

18 MR. MOTLEY: Mr. Kolb, unfortunately you
19 do not know we are governed here by order of
20 a court specifically not allowing objections
21 like that. I'd like Mr. Maher to perhaps
22 advise of you that?

23 MR. MAHER: If I may interject, under
24 the law of the state of Florida, it is
25 appropriate to make objections as to form.

M E L A N I E G R O U T R E P O R T I N G , I N C.
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17

1 To object otherwise and to make objections
2 that are suggestive of response such as you
3 just made are totally inappropriate. Judge
4 Rutter has ruled in the past, our special
5 master, governing discovery that that is
6 inappropriate conduct in his own -- on some
7 occasions has instructed counsel that it was

8 inappropriate to do so. And I just, for your
9 knowledge, would comment on that?

10 THE WITNESS: Mr. Kolb, I think I could
11 answer this question without waiving any
12 attorney-client privilege.

13 MR. MOTLEY: Would you read the question
14 back, please, ma'am.

15 (The court read back the pending
16 question.)

17 THE WITNESS: I have not.

18 BY MR. MOTLEY:

19 Q. You would, you know, think that's
20 appropriate, would you?

21 A. I would not -- ordinarily if I heard that, I
22 would be very troubled by it.

23 Q. Mr. Goldstone, I want you to look, if you
24 would, at this document, which will be No. 3?

25 (Plaintiff's Exhibit No. 3 marked.)

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18

1 BY MR. MOTLEY:.

2 Q. -- Which document you were given, it says a
3 Frank Statement by the public by the makers of
4 cigarettes, December 20, 1953?

5 A. Yeah. Correct.

6 Q. That's what you have?

7 A. Yeah.

8 Q. Mr. Goldstone, I would ask you to assume that
9 this is a document produced from the archives of Hill

10 and Knowlton and further assume Hill and Knowlton is a
11 public relations firm that was retained by certain
12 cigarette manufacturers, including Reynolds, in late
13 1953 to advise them with respect to cigarette smoking
14 and disease issues and ask you to turn to page 2, if
15 you don't mind.

16 You note there's a sentence that's been
17 struck by being caused out. It reads: We will never
18 produce and market a product shown to be a cause of any
19 serious human ailment. Did I read that correctly?

20 A. Yes.

21 Q. Mr. Goldstone, is it not your -- this is
22 dated 1953. Is it not your intention, sir, to attempt
23 to market cigarettes that will not cause serious human
24 ailments in the future?

25 A. I'm going to have to ask you -- can I hear

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1 the question again?

2 Q. Would it be your goal of chief executive of
3 Reynolds to try to market -- to develop and market a
4 product that will not be the cause of serious human
5 ailments?

6 A. That would be definitely a goal of this
7 company, if we could do that.

8 Q. Mr. Goldstone, this is a document that was
9 just produced to us. And I ask to you assume, sir,
10 that is dated in 1953 when you were seven or eight
11 years old and I was nine. And it is a Hill and
12 Knowlton document which was sent to the cigarette

13 companies who were sponsoring Hill and Knowlton public
14 relations advice.

15 And I ask you to turn over, please, sir, to
16 page -- and the page numbers are at the top right, page
17 5. And look at problem No. 3, how to validate this
18 message of assurance, down at paragraph C. It's at the
19 bottom of the page, which reads: To overlook the fact
20 in this particular instance, the stakes for the public
21 are even larger than for the tobacco manufacturers, for
22 the public an issue touching the deepest of human fears
23 and instincts is involved. The issues of
24 uncontrollable disease and death. Hence, cigarette
25 companies might not readily be forgiven, page 6, if

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20

1 their approach to this problem is stemmed only from
2 eagerness to protect their earnings and if they twisted
3 the research of medical science which seeks to save men
4 into a device to save stockholders.

5 There is no precedent where a great industry
6 where industry has been forced to face judge grave
7 issues. You probably have never seen this document?

8 A. I have not.

9 Q. That's a document that's 44 years old.

10 Wouldn't you agree, sir, that's a fairly sound piece of
11 advice even today n 1997, that industry, faced with an
12 accusation that a product causes disease should place
13 the public health above earnings?

14 A. I think if we're talking about the tobacco

15 industry, which is I think what you're talking about --

16 Q. Yes, sir.

17 A. -- I think that industry has to be sensitive
18 to public health concerns. It sells a product that
19 uniquely considered to cause problems in public
20 health. It has to be sensitive to that.

21 Q. So the answer to my question is, yes, you
22 believe that is sound advice for the cigarette
23 industry?

24 A. Well, let me -- can I take the paragraph
25 and --

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21

1 Q. Oh, absolutely. You take your time and look
2 at it all you wish.

3 A. I think that is reasonable advice.

4 Q. To place the public health when you have an
5 issue of cancer and other disabling and deadly diseases
6 above concerns, correct?

7 A. I think what they're talking about here is
8 not so much placing public health, it's twisting
9 research and medical science. That I think would be
10 unforgiven.

11 Q. Don't you know, Mr. Goldstone from your --
12 again understanding you've only been with this company
13 recently. There are serious allegations being made at
14 your predecessors at Reynolds and allegations that did
15 attempt to twist medical research at the expense of
16 public health.

17 A. The only -- Mr. Motley, remember that I'm

18 chairman of the board of RJR Nabisco. There is chief
19 executive -- I think you've taken his deposition of
20 Reynolds.

21 Q. Who is that?

22 A. Andy Shindler.

23 Q. No, I haven't?

24 A. Somebody did.

25 Q. Don't accuse me of being him.

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22

1 A. I don't mean to be overly technical but my
2 predecessors did not work in the tobacco business.

3 Q. You understand --

4 A. Yeah. The allegations -- let's not kid
5 ourselves. You're making allegations about twisting
6 medical research and there are serious allegations
7 about predecessors in the tobacco business, you bet
8 there are.

9 Q. I have not had the opportunity to talk to
10 Mr. Shindler, but Mr. Shindler was asked this question
11 April 14th, 1997 by Mr. Rosenblatt, and I want to read
12 you the question and his answer and ask you if you
13 agree with this.

14 Mr. Shindler, the president and chief
15 executive officer of -- page 164 - president and CEO of
16 RJ Reynolds Tobacco Company, April 14th, 1997 four
17 months ago.

18 Question: If it were ever established to
19 your satisfaction through the greatest scientists in

20 the world that cigarette smoking does, in fact, cause
21 lung cancer, would you quit your job or would you keep
22 selling billions of cigarettes?

23 His answer was: I would not quit my job.

24 Now, I don't want to ask you that question.

25 I want to ask you another question. If Mr. Shindler

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1 came to you and told you that scientists at Reynolds
2 had concluded that the evidence was sound and solid
3 that cigarettes cause lung cancer, would you advise
4 owning 100 percent of the share of that company that
5 Mr. Shindler close down the factory and stop making
6 those cigarettes until you can find out how to get rid
7 of the thing and cigarette that cause cancer?

8 A. Well, it's a complicated question for me. I
9 hope you give me a second to --

10 Q. You take all the time you want, sir.

11 A. -- to answer that one for you, because for
12 myself, and this is just my own personal opinion -- I
13 have been in this world for 51 years. I'm not a
14 scientist, but I do believe that today that cigarette
15 smoking plays a role in causing lung cancer. And I'm
16 in the job I'm in and I believe that the State of
17 Florida, the government of the State of Florida, I
18 think most people on your side of the table, I believe
19 the president of the United States and I believe
20 everyone in Congress, and I believe most Americans
21 believe that cigarette smoking causes lung cancer.

22 And all of these people, Florida, the

23 governor, the president, the Congress has decided
24 against prohibition. They decided that American adults
25 with free information and with good information ought

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24

1 to be able to make their own choice.

2 Politically I personally believe that. I
3 believe in that very much. I think that's one the most
4 important principles we have in this country. But if
5 Mr. Shindler, if it became a revelation for him, and he
6 decided he shouldn't participate in the business
7 anymore, I could understand that completely.

8 But for me, today, sitting here if a
9 scientist could connect the scientific -- fill in the
10 scientific gaps, that would not be have a revelation to
11 me that cigarette smoking somehow is found to cause
12 cancer. That's not a shock to me. I don't think
13 that's a shock to any American today. That's where I
14 am on that.

15 I will tell you this: I was watching on CNN
16 this morning. I saw one of the universities, one of
17 the scientists thought they discovered what it was, the
18 mechanism, caused from smoking, the lung cancer. I
19 hope they do. And if they do, these tobacco companies
20 better work like lunatics to find out how to improve
21 their products. It would be good for all Americans to
22 understand cancer more and I think it would be
23 important for this industry to do that.

24 The other thing, Mr. Motley, this time this

25 industry will work hand in hand with the government and

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1 will work cooperatively in terms of medical research.

2 But denying basic truths, medical truths is not what
3 the industry will do, at least not what RJ Reynolds
4 Tobacco Company will do.

5 Q. I take it, sir, do you accept that cigarette
6 smoking is a cause of disease in humans?

7 A. I will tell you because I'm not a scientist,
8 and I respect the views of your scientists at our
9 company who very compellingly explained to me why there
10 are gaps in scientific knowledge. I've only been in
11 this company a number of years. I was a smoker myself
12 at one time, and I have always believed, rightly or
13 wrongly, I have always believed that smoking plays a
14 part in causing lung cancer. What that role is, I
15 don't know, but I do believe it.

16 Q. Your answer to my question is yes?

17 A. Yes, sir.

18 MR. MOTLEY: Off the record for a
19 second.

20 (Off the record.)

21 BY MR. MOTLEY:

22 Q. Mr. Goldstone, in your prior answer you
23 mentioned the word adults are a freedom of choice,
24 which is a cherished right in your country. I would
25 ask you, sir, a corollary of freedom of choice is full

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1 disclosure, so you have all the cards on the table in
2 order to exercise choice?

3 A. I think the cards have to be on the table to
4 exercise free choice.

5 Q. Have you ever known anyone who is addicted
6 to -- anyone a slave to a substance?

7 A. I don't think I have.

8 Q. Would you accept that addiction, true
9 addiction of a person to a substance robs that person
10 of an ability to exercise free will and free choice?
11 I'm not talking about cigarettes now. I'm talking in
12 general?

13 A. I know that. I think the way that we define
14 addiction today colloquially, I don't think that's
15 necessarily true. I think a traditional definition
16 would be true.

17 Q. So a person that has to have a substance to
18 get by, whatever you call it, dependent on it, is
19 addicted to it, that that burning desire robs that
20 person of true choice? Do you agree with that?

21 A. Under the orthodox medical definitions that
22 used to exist, I think that's true.

23 Q. Mr. Goldstone, I'm going to hand you --
24 unfortunately, I used up by last pack of L & M
25 cigarettes yesterday with Mr. Bible, and I only have

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1 one. This is a Xeroxed copy of the different sides of
2 an L & M cigarette. You noticed, sir, it says -- I'm
3 going to ask the court reporter to mark that as six.

4 Q. Do you see the front of Exhibit 6 where it
5 says smoking additive? That's a package of L & M
6 cigarettes?

7 A. Yes, sir.

8 Q. You understand that Mr. Bennett LeBow, the
9 chairman of Liggett group has required his company to
10 place an additional warn on a pack of cigarettes to say
11 smoking is addictive and you see that reflected in that
12 copy, correct?

13 MR. CRIST: Object to the form and
14 foundation.

15 BY MR. MOTLEY:

16 Q. You see that correct?

17 A. I do see that warning on this exhibit.

18 Q. Has Reynolds under your stewardship adopted a
19 position of warning people in third world countries
20 about cigarettes and the potential hazards?

21 A. Reynolds, as I understand it, has a policy of
22 putting warnings -- different warnings are required in
23 different countries. We have warnings as they're
24 required in each country.

25 Q. But if a country doesn't require warning,

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1 Mr. Goldstone, would it be your intention in the future
2 to let those people have the benefit of the knowledge
3 that smoking carries risks to human health in the

4 future?

5 A. Yes.

6 Q. Agreement would be?

7 A. Yes.

8 Q. Mr. Goldstone, it's a honor to meet you,

9 sir. I have no further questions.

10 MR. CRIST: Can we take about five
11 minutes?

12 MR. MOTLEY: Well, if you do -- I'll let
13 you know that I'm going --

14 VIDEO TECHNICIAN: Off the record.

15 (Discussion held off the record).

16 VIDEO TECHNICIAN: Back on the record.

17 This will conclude the deposition.

18 (Thereupon, at 9:55 a.m the
19 foregoing proceedings were concluded.)

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